IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02..11..2007

CORAM:

THE HONOURABLE MR. JUSTICE K. CHANDRU

Writ Petition No. 22123 of 2007
and
M.P. Nos. 1 and 2 of 2007

M. Rajendran .. Petitioner

Vs.

1. The Deputy Milk Commissioner (Co-operation)
Office of the Commissioner for Milk Production
and Diary Development, Chennai - 51

2. The Special Officer
T.901 Kumbakonam Milk Producers'
Co-operative Society
60 Dr.Moorthy Salai, Kumbakonam

3. S.Kaliaperumal .. Respondents

Petitions filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari calling for the records of the first respondent contained in his R.C.No. 1829/04 M1 dated 26.10.2005 and quash the same.

For Petitioners : Mr. M. L. Ramesh
For Respondent 3 : Mr. R. Rajesh

O R D E R

The petitioner is a member of the second respondent Co-operative Society. The third respondent was reverted from service vide order dated 20.10.2003 passed by the second respondent Special Officer of the Co-operative Society on 20.10.2003. As against the reversion, the third respondent filed a statutory revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 [for short, 'Act']. The revisional authority, who is the first respondent, after notice to the second respondent Special Officer, allowed the revisional application by order dated 26.10.2005. In that revisional order, it was stated that the third respondent being reverted from the post of Manager to that of Clerk as well has having reduction in scale would amount to double

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punishment and it was bad in law. The second respondent did not challenge the said revisional order. But, on the other hand, has given effect to the said order. The petitioner, being a member of the Co-operative Society, aggrieved by the inaction of the Special Officer, has filed the present writ petition challenging the revisional order made in favour of the third respondent.

2. The petitioner is only a member of the Society. Under the bye-laws of the Society, he is not authorised to sue on behalf of the Society. However, the learned counsel appearing for the petitioner submits that he was moved by the public spirit and wanted to save the Society and the third respondent has committed several misconducts in the Society and if he is allowed to commit more irregularities, the Society will have to be wound up.

3. This Court is unable to entertain a writ petition at the instance of a member of the Society in respect of a disciplinary action taken against the third respondent. It is not a case of the matter being rested only with the order of the Special Officer whereas the third respondent has filed a statutory revisional remedy and the revisional authority has granted relief in favour of the third respondent.

4. In any event, a Division Bench of this Court in its decision reported in 2005 W.L.R. 802 [N. Veerasamy v. Union of India and others], after following the judgment of the Supreme Court reported in 2000 (9) SCC 313 [Rajnit Prasad v. Union of India], held that the third parties cannot have any say in the matter of disciplinary proceedings. The relevant passage found in paragraph 9 of the judgment of the Supreme Court cited supra may be usefully extracted below:

Para 9: "But a mere busybody who has no interest cannot invoke the jurisdiction of the court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of court."

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Therefore, the writ petition is not clearly maintainable.

5. However, the learned counsel for the petitioner relies upon the judgment of the Delhi High Court reported in CDJ 2006 DHC 053 [Samridhi Devi v. Union of India and others] and submits that the Courts have expanded the concept of locus standi. But in that particular case, with regard to the sexual harassment done to a lady employee, another person was allowed to bring the matter to the Court. In the present case, we are not concerned with any disciplinary action against any individual either being taken or not being taken by the Co-operative Society. But the attack is against the statutory revisional order passed in favour of the third respondent and it is implemented by the second respondent Special Officer. It is, at this stage, the petitioner, as a third party, has come to challenge the revisional order. Therefore, the reliance placed on the decision of the Delhi High Court has no application to the facts of the present case.

6. In view of the above, the writ petition fails and deserves to be dismissed. Accordingly, the same is dismissed. However, there will be no order as to costs. Connected Miscellaneous Petitions are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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and Diary Development, Chennai - 51

2.The Special Officer
T.901 Kumbakonam Milk Producers'
Co-operative Society
60 Dr.Moorthy Salai, Kumbakonam - 612001

1 cc To Mr.M.L.Ramesh, Advocate, SR.66160.
1 cc To Mr.R.Rajesh, Advocate, SR.66092.

W.P.No. 22123 of 2007

KM(CO)
RVL 12.12.2007

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